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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---------------------------|-------------|----------------------|----------------------|------------------|
| 10/790,376 | 03/01/2004 | Ross W. Bauer | RB-001US | 4254 |
| 7590 05/03/2006 | | | EXAMINER | |
| PATRICK REILLY | | | SHAW, ELIZABETH ANNE | |
| BOX 7218 | | | ART UNIT | |
| SANTA CRUZ, CA 95061-7218 | | | PAPER NUMBER | |
| | | | 3644 | |

DATE MAILED: 05/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/790,376 | BAUER, ROSS W. | |
| | Examiner | Art Unit | |
| | Elizabeth A. Shaw | 3644 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13, 14, 18-20 is/are allowed.
- 6) ☒ Claim(s) 1-3, 7-9, 11 and 15-17 is/are rejected.
- 7) ☒ Claim(s) 4-6 and 10 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1-3, 7-9 and 15-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Flesher (5,158,324). Flesher shows a cover 100 composed of assorted materials considered to be fabric, capable of being used as a cushion by a cat or dog, comprising a pad having a top and opposing bottom, the top forming a surface for the cat to lie upon and an attachment means 104 coupled with the pad 100 for easily removing the cover 100 from the metallic hood of a vehicle. The cover having a planar surface and shaped as a quadrilateral of a size capable of covering large sections of the vehicle hood, see figs. 2A, 2C, 2D, 2E. . It is considered that any part of the cover can act as a pillow section, since no other structure is noted, a pillow section can be any area where the animal places it's head down, that area being a "pillow" section for the head of the animal. Further it is considered that once the fabric is removed from the cover, the fabric is configured for roll-up and that when placed on a heat emitted structure, unless specifically designed against it, all fabric can transmit heat or have heat be felt through it.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Flesher in view of Sandbeck (D465,687). Flesher does not teach the use of a logo. Sandbeck

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shows a protective cover having a shape on the surface such as a logo, see fig. 7. With respect to claim 11, to use the logo of Sandbeck with the cover of Flesher would have been obvious to one skilled in the art in order to alter the aesthetic appeal of the device or to advertise the manufacturer.

Allowable Subject Matter

Claims 4-6 and 10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 13, 14 and 18-20 are allowed.

Response to Arguments


Applicant's arguments with respect to claims 18-20 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth A. Shaw whose telephone number is 571-272-6908. The examiner can normally be reached on M-Th 10:00-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teri Luu can be reached on 571-272-7045. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Elizabeth A. Shaw
Examiner
Art Unit 3644

April 13, 2006

FRANK PALO
PRIMARY EXAMINER
